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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,735	09/26/2005	Jakob Oelund	P70823USD	8353
136 7590 11/03/2008 JACOBSON HOLMAN PLLC 400 SEVENTH STREET N.W. SUITE 600 WASHINGTON, DC 20004				
EXAMINER JACKSON, BRANDON LEE				
ART UNIT 3772		PAPER NUMBER		
MAIL DATE 11/03/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/550,735

Applicant(s)

OELUND ET AL.

Examiner

BRANDON JACKSON

Art Unit

3772

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 September 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-20.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☒ Other: See Continuation Sheet.

/Patricia Bianco/
Supervisory Patent Examiner, Art Unit 3772

/Brandon Jackson/
Examiner, Art Unit 3772

Continuation of 13. Other: It is noted that Applicant has moved the claim limitations of claims 2 and 3 into claim 1; however, this does not place the application in condition for allowance, because the 102(b) rejection would merely become a 103(a) rejection using the same prior art; therefore, it will not be entered after final. Applicant argues it would not be obvious to one of ordinary skill in the art to modify the central portion of the Hansen device with radial grooves, as taught by Samuelsen, because the radial grooves of Samuelsen are not in the centermost portion of the device. However, the radial grooves are disposed in the central part of the device, even though not the centermost portion, and it would be obvious to modify any portion of the Hansen device with radial grooves in order to increase flexibility and the device's ability to conform to the contour of the human body. The radial and concentric grooves, as taught by Samuelsen, intersect with one another, therefore the Hansen/Samuelsen device would have intersecting concentric and radial grooves. Applicant argues the Hansen/Samuelsen grooves do not cross one another, but merely abut. The grooves to cross one another, because in order to be crossing the grooves must merely span the widths of one another, which the Hansen/Samuelsen grooves do. The grooves do not have to extend beyond the width of each grooves span, only at least to the end. Applicant cites Page 7, Lines 11-20 as criticality or an unforeseen advantage to have different patterns in the central and edge areas. However, the specification provides support for not having indentations meeting the border at 90 or 180 degrees; not support for the criticality or an unforeseen advantage of having the central and edge areas having different patterns. Lastly, applicant argues there would be no reason for the grooves (2) of Samuelsen to be extended to the outer edges of the device because it would cause leakage. However, the grooves would not cause leakage because the wound would still be beneath the device and the grooves would draw the fluid away from the site merely by their presence. In addition, the extension of the grooves would provide the device more flexibility to conform to the user's body.